

**TO CLARIFY THE TREATMENT OF MINERAL
MATERIALS ON PUBLIC LANDS**

HEARING
BEFORE THE
SUBCOMMITTEE ON
ENERGY AND MINERAL RESOURCES
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 2157

A BILL TO CLARIFY THE TREATMENT OF MINERAL MATERIALS ON
PUBLIC LANDS

MAY 22, 1984



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TO CLARIFY THE TREATMENT OF MINERAL MATERIALS ON PUBLIC LANDS

TUESDAY, MAY 22, 1984

U.S. SENATE,
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room SD-366, Dirksen Office Building, Hon. Chic Hecht, presiding.

Present: Senators Hecht and Warner.

Also present: Robert L. Terrell, professional staff member; and Linda Mason, professional staff member for the minority.

OPENING STATEMENT OF HON. CHIC HECHT, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator HECHT. Good morning. Today the subcommittee will hear testimony concerning S. 2157. This bill was introduced by two of my colleagues, Senators Garn and Hatch, on November 18 of last year. The purpose of S. 2157 is to amend section 4 of the act of July 23, 1955, which is referred to by many as the "Multiple Surface Use Act of 1955."

The problem that S. 2157 seeks to solve results from the language contained in subparagraph (b) of section 4 of the 1955 act and its subsequent interpretation by the courts and the Department of the Interior. The language I refer to in subparagraph (b) of section 4 pertains to the rights reserved to the United States to " * * * manage and dispose of the vegetative surface resources * * * and to manage other surface resources * * *" on unpatented mining claims located after July 23, 1955. The latter phrase, " * * * to manage other surface resources * * *," has been interpreted as not providing the United States with authority to dispose of any mineral material from an unpatented mining claim.

The lack of disposal authority for mineral materials such as sand and gravel has had a significant impact on the ability of State and local governments to satisfy demands for such materials for use in industrial construction and road construction and maintenance. A good case in point is the situation in the State of Utah. There are approximately 120,000 unpatented mining claims in the Moab area of Utah alone, many of which would be suitable as sources of sand and gravel. Irrespective of the fact that many of the mining claimants holding unpatented mining claims in this area would consent to disposal of sand and gravel from their claims, the Government's hands are tied. Without specific statutory authority, as provided in

the bill before us, the situation will likely become more acute not only in the State of Utah but in other public lands States.

[The text of S. 2157 follows:]

98TH CONGRESS
1ST SESSION

S. 2157

To clarify the treatment of mineral materials on public lands.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18 (legislative day, NOVEMBER 14), 1983

Mr. GARN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To clarify the treatment of mineral materials on public lands.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 4 of the Act entitled "An Act to amend the Act
4 of July 31, 1947 (61 Stat. 681) and the mining laws to pro-
5 vide for multiple use of the surface of the same tracts of
6 public lands, and for other purposes", approved July 23,
7 1955 (69 Stat. 368; 31 U.S.C. 612) is amended—

8 (1) in subsection (b) by—

9 (A) inserting after "vegetative" the following
10 "and mineral material"; and

11 (B) inserting after the second proviso the fol-
12 lowing: "*Provided further*, That if at any time the

1 locator requires more mineral material for his
2 mining operations than is available to him from
3 the claim after disposition of mineral material
4 therefrom by the United States subsequent to the
5 location of the claim, he shall be entitled, free of
6 charge, to be supplied with mineral material for
7 such requirements from the nearest mineral mate-
8 rial site administered by the disposing agency sub-
9 ject to reasonable rules and regulations for the
10 protection of nonmineral resource values including
11 environmental values:"; and
12 (2) in subsection (c) by inserting after "vegeta-
13 tive" the following "and mineral material".

Senator HECHT. We will now proceed with our first witness, the Honorable senior Senator from Utah, Jake Garn.

**STATEMENT OF HON. JAKE GARN, A U.S. SENATOR FROM THE
STATE OF UTAH**

Senator GARN. Thank you very much, Mr. Chairman. I am pleased to be before the subcommittee today, and I will be very brief. The Senator from Nevada knows as a distinguished member of the Senate Banking Committee, I start hearings on time, and I appreciate the fact that the Senator from Nevada was right on time this morning.

I like brief statements. Therefore, I will not violate my own rules.

I do appreciate the opportunity to testify today on S. 2157, a bill which would allow the Bureau of Land Management to dispose of sand and gravel deposits found on unpatented mining claims located on Federal lands administered by that agency.

The Bureau of Land Management is presently prevented from disposing of surface sand and gravel materials on top of unpatented mining claims because of a legal interpretation by the Department of the Interior which denies such discretion to local BLM land managers. Under this interpretation, sand and gravel deposits cannot be sold, removed, or displaced even when a mining claimholder consents to such removal. Thus, with numerous speculative mining claims blanketing southern Utah, local communities find themselves with no legal way to obtain common sand and gravel for road construction or other basic construction activities. Of course, not all of the mineral claims in southern Utah are speculative, many support viable, ongoing mineral development. Yet, as the chairman has mentioned, in the Moab Utah District of BLM alone, there are nearly 120,000 mining claims covering the landscape. Thus, Mr. Chairman, you can see our problem. If even a fraction of the anticipated natural resource development in southern Utah which could occur, does occur, then the pressure to utilize these sand and gravel resources will be overwhelming and without a change in the law, or at least in the interpretation of the law, sand and gravel will simply become a commodity available for a limited few.

I mention the interpretation of law because of the fact that the U.S. Forest Service is presently and has been for some time, allowing the disposal of sand and gravel on national forests with the consent of the mining claimant under a different interpretation of the same statute, 31 U.S.C. 612. From nearly all accounts, this system of disposal works very smoothly in national forests and protects the rights of mining claimants.

My bill would simply clarify that "mineral material surface resources" are eligible to be disposed of by all Federal land managers. It would also protect mining claimants by assuring just compensation for any surface sand and gravel which they may need but which may have been previously disposed of under this authority.

I am confident that with this simple clarification of current law, the people of southern Utah will benefit by gaining access to a

common resource on BLM-administered lands which is now denied them.

Thank you for this opportunity to testify. I would like to briefly introduce the panel from Utah that will testify on this particular bill.

First of all, Ms. Dorothy D. Allen speaking on behalf of the Honorable Scott Matheson, the Governor of Utah; Commissioner Cal Black, San Juan County from Blanding, UT. Cal has been a friend of mine for many, many years and one of our most distinguished county commissioners in Utah, and there isn't a county commissioner either in Utah or Nevada who fights for the rights of local government like Cal Black. Mr. Ray Tibbetts, Board of Directors for Economic Development from Grand County, Moab, UT. And and I am certainly pleased that they are here to testify on this bill today, Mr. Chairman. Thank you very much.

Senator HECHT. Thank you. Would the panel please come up. Before all of you start your testimony I just want to make a point here. I don't think any State is closer to Nevada than Utah, and they always say during the summer on the hot Nevada days half of our population goes to Utah for the weekend. I'm sure you've heard that. So I think our States are pretty interrelated.

Our first witness is Ms. Dorothy Allen. You may proceed.

STATEMENT OF DOROTHY D. ALLEN, ON BEHALF OF HON. SCOTT M. MATHESON, GOVERNOR OF UTAH

Ms. ALLEN. Mr. Hecht, members of the subcommittee, my name is Dororthy Allen. I appreciate this opportunity to appear before you today on behalf of Governor Scott Matheson of the State of Utah.

Senator Jake Garn introduced a bill, S. 2157, which would allow the Bureau of Land Management to dispose of sand and gravel deposits found on unpatented mining claims located on BLM-administered lands. The bill is of great importance to the State of Utah since so much of our State is covered by Federal lands.

Southeastern Utah is one of the major uranium-producing regions in the United States. As a result of this distinction, much of this area is blanketed with speculative uranium mining claims. These claims are often located far from any mineralized outcrops, on lands which are known, however, to be underlined by the predominate uranium-producing formations found in the region. Approximately 60 percent of the land in southeastern Utah is underlain by such formations.

Obviously, not all of the mining claims in this part of the State are speculative in nature. Many of them support legitimate, ongoing mineral development. Many of the speculative claims themselves are located by large mining companies doing exploratory drilling in the general areas, or by small independent miners hoping to be bought out by the large companies, or hoping to assemble the necessary capital to develop the property themselves.

Regardless of the reasoning behind such speculative claim staking, the effect is one of essentially prohibiting the Bureau of Land Management from disposing of sand and gravel surface resources on a mining claim. In the majority of cases, the utilization of sand

and gravel surface deposits would not interfere with the enjoyment of rights associated with the mining claim. And in most cases, the mining claimants themselves have indicated that they have no objection to the utilization and disposition of surface sand and gravel from their claims.

However, based on the Interior Department Solicitor's interpretation of the Surface Resources Act of 1955 covering unpatented mining claims, the BLM cannot legally dispose of sand and gravel on mining claims located on Bureau-administered lands with or without the claimant's consent. Furthermore, the law even prohibits the mining claimant himself from disposing of sand and gravel from his claim, thereby effectively "locking up" valuable public resources.

Hundreds of thousands of cubic yards of sand and gravel are needed in southeastern Utah annually, primarily for industrial construction and for road construction and maintenance. Current demand and competition for this material is heavy and will undoubtedly increase as the area's energy resources such as coal, uranium, oil and gas, tar sands, and oil shale are developed over the next 10 to 20 years.

Current demand is met from relatively few sights scattered through the region. Often available deposits are far from locations where needed, thus presenting significant if not prohibitive transportation costs. New deposits, unencumbered by mining claims, are extremely difficult to find.

The Department of Agriculture Solicitor has interpreted the same statute to allow the Forest Service to utilize and dispose of sand and gravel materials from mining claims on Forest Service lands with the consent of the claimant. Such actions do not encroach on the rights accorded to a mining claimant since the claimant determines whether or not disposal of sand and gravel would interfere with any current or planned mining operation.

Senator Garn's bill, S. 2157, removes this disparity in interpretation by allowing other Federal surface management agencies, most importantly in our case the BLM, to utilize and dispose of sand and gravel materials in a manner consistent with that used successfully by the Forest Service.

I close by stressing the need of the State of Utah for this legislation. On behalf of Governor Matheson, I thank you for the opportunity to speak here today.

Senator HECHT. Thank you very much.

Our next witness is Commissioner Cal Black.

STATEMENT OF CALVIN BLACK, CHAIRMAN, BOARD OF COMMISSIONERS, SAN JUAN COUNTY, UT

Mr. BLACK. Thank you very much, Mr. Chairman. I agree with you that our States are very close, and for all of the money Nevada people bring to our ski areas in Utah I think we take it back on the cooler days at the casinos.

Senator HECHT. In Washington we call that reciprocity.

Mr. BLACK. That's correct. A very good relationship.

Mr. Chairman, I appreciate the opportunity to testify before you today on the Senate bill 2157, introduced by Senator Jake Garn. If

enacted, this legislation will solve the very serious problem that has plagued the county I represent for many years with respect to availability of gravel for public purposes. It will also solve the same problem for Utah State Department of Transportation, cities, water districts, and other public entities and also for gravel needed by the private sector in Utah and many other Western States.

Before I proceed further it might be useful to the committee to know of my background. I am serving my 16th year as a county commissioner. I also served 4 years as mayor of Blanding, UT, and served a 2-year term as a member of the House of Representatives. I have been in the mining business for 35 years. I have staked many mining claims and still have several hundred unpatented claims, which I own or have leases on. I am also a member of the National BLM Advisory Counsel.

In my opinion, this legislation will do no serious damage to a legitimate owner of the mining claim, and I say that being a mining claim owner. The owner of such a claim does not own the gravel by virtue of the unpatented claim, although he does have the right to use gravel for purposes of extracting the mineral for which the claim was located. Gravel is seldom used in large quantities for such purposes, but it is my understanding that if a claim owner needs gravel at a later time, it would be made available from another source if it had been removed from his claim.

San Juan County is almost 8,000 square miles in area, about 20 percent larger than the entire State of New Jersey. Our population is only about 12,500, about half of them Navajo and Ute Indians. About 6,000 people live in or near the two incorporated cities and the other 6,500 are scattered throughout the rest of the 8,000 square miles. Incidentally, in order to get to some of those areas we have to go through Arizona. To get to another part we have to go through Colorado and to get to another part we have to go to Mr. Tibbetts' county to the north of us. It is cut with very deep canyons. Our terrain ranges from about 3,600 feet elevation to over 12,000 feet above sea level with deep canyons in the desert red rock country to high alpine mountains. Within this vast area we have almost 2,500 miles of county roads to serve the people, and a little over 500 of these miles are on the Navajo Reservation. Many of these are schoolbus roads and are still little more than dirt trails which we are trying to upgrade to safely carry children to school.

The gravel resources are extremely limited both to location and quantity. At times quality gravel must be hauled by truck up to 40 or 50 miles or even further. We have had instances where we have had to haul it over 100 miles.

It, therefore, poses a problem for us with respect to both cost and at times even availability of gravel when gravel at such sources is unavailable.

The BLM has been very cooperative in trying to solve the problem. We have persuaded claim owners to sign a quit claim deed or waiver of rights to the gravel but have been told this is inadequate. Some claim owners have been willing to temporarily relinquish their claims for a few minutes while the BLM issues a gravel permit and then they revoke it, but some owners will not for various reasons, the change of title and other things, legitimate reasons. And even if that could continue to work, that is not an ac-

ceptable long-term solution. Occasionally we have even been forced to get the gravel without a permit, but this puts both the BLM and the county in an unacceptable position.

Therefore, Mr. Chairman, I urge this committee and the Senate and the Congress to adopt this legislation so these serious problems can be eliminated.

Again, thank you for the opportunity to testify on this matter, and I will be happy to respond to any questions.

Senator HECHT. Thank you very much, Commissioner Black.

Senator WARNER. I just want to express my appreciation to the Chair for having this important hearing this morning. I am chairman of the Senate Armed Services Subcommittee which begins its markup at 10 o'clock. Thank you.

Senator HECHT. Thank you, Senator Warner. I am very happy to be chairing the subcommittee because I understand the problems in Utah and Nevada since they are so closely related.

Our next witness is Mr. Ray Tibbetts.

**STATEMENT OF RAY TIBBETTS, BOARD OF DIRECTORS FOR
ECONOMIC DEVELOPMENT, GRAND COUNTY, MOAB, UT**

Mr. TIBBETTS. Thank you, Mr. Chairman. I, too, want to thank you for the opportunity to be here today and testify before this committee.

My name is Ray Tibbetts. I am a native resident of Moab, UT, Grand County. My background is in small business in the city of Moab, and I have served as Grand County Commissioner. I am a mining claim owner, allowed by the 1872 mining law. I don't want to say or do anything that may take away or change the rights that belong to a legal mining claim guaranteed by the 1872 mining law.

Senator WARNER. Excuse me. If the witness will indulge me for one observation. This part of America has suffered really historic flood levels of recent. Does this legislation in any way help in the efforts of the Governor and other officials of the State to alleviate the damage of flooding with this needed gravel and so forth? I just wondered if that might be a factor in this, and if so would the witnesses address it. Those of us, although we are not residents of the State, are very conscious of the difficulties you are experiencing.

Mr. TIBBETTS. Quite often in southeastern Utah we are not really plagued with the floods that they are in the northern sector, although we do have them. I am sure if you study this or look into it further you will find that alleviating the problems we are talking about today will help solve a lot of the problems in flooding. We have that problem on the Colorado River in Grand County and the San Juan River. We have some damages brought about by high waters and floods, but they still have some public lands in the Wasatch in the northern part of Utah that will see a lot of benefits from this type of legislation.

Senator WARNER. Could Mr. Black comment on that before I depart?

Mr. BLACK. Yes. Thank you, Mr. Chairman. There areas in northern Utah where the flooding does occur that we are having right now and had last year where there are public lands that

would have that same problem. So I would say yes, this would help solve those problems as well as in the southern part and in all other Western States, whether flooding or through other public purposes. This is a very serious problem.

Senator WARNER. That was my thought, Mr. Chairman. In view of the heavy schedule before the Senate now, we might mention to our colleagues that there's a certain relevance to this piece of legislation and the extraordinary damage caused by floods in this part of the United States.

Senator HECHT. Thank you for addressing the flood situation because it is a very big factor; a terrible problem we have in our State. We had 2 years of excessive rainfall. The underground water tables are full. We have a huge snow pack that is melting every day, and so we have the same problems.

Senator WARNER. I wish you luck, Mr. Chairman.

Senator HECHT. Thank you, Senator Warner.

You may continue.

Mr. TIBBETTS. As a past county official, there have been many times when we needed the shale pit, or gravel and sand for our county roads. We would travel miles away, mostly to State school sections or private lands, to get materials for our projects. This was brought about due to the lack of a clear definition in the wording of our mining laws, whereas mining claims hold everything from the surface on down. Unfortunately, this puts our public land administrators [BLM] in a quandary.

We need a clear definition of the language pertaining to surface management. We need to give up surface management for the purpose of roads and pits, unless the lode or minerals are in place at the surface.

I am a mineral claim owner and have been for 30 years. I don't feel that I own the surface of my claims, only the minerals I was locating, such as copper, uranium, or whatever the case may be. As a claim owner, I never felt that I could sell or give away permission to open a pit on my property, other than the intent of my location.

In Grand County, UT, our private landmass is only about 3 percent. The balance is national parks, State parks, State land, and for the most part public lands. Approximately 80 percent of the public lands are located in the Moab BLM District. Most of this area is staked for mineral deposits, primarily uranium claims.

This land is arid desert country, except along the Colorado River, and gravel is a resource that is hard to find. In some cases, we have ancient gravel deposits overlaying mineral-bearing areas. In such a case, the BLM or claimholders cannot dispose of the gravel.

In 1982, contractors were looking for gravel to bid a 20-mile section of Interstate 70 in northern Grand County. The closest deposit was 10 miles away. The cost for hauling ranged from \$2.40 per ton at the nearest point to \$3.30 per ton at the farthest point. The project required over 100,000 tons. This gravel came off of a State school section along the river, over rough dirt roads. Under these conditions, the hauling on this job alone came to over \$300,000. If the gravel deposit along or near the highway could have been used, the cost would have been much less. It would have run from about

\$0.85 to \$0.90 per ton. At this rate, the hauling would have cost about \$90,000, less than one-third the actual projected hauling cost.

We must all share our resources and we should put the necessary wording in our laws to clear up the problems we now face. However, it is my opinion that any modification of the laws should continue to protect the rights of the claim owners.

As a past county official and present claimholder, I am very pleased with the amendment prepared by Senator Jake Garn. With this wording, we will enjoy great benefits; we will get better roads and public service at a much reduced cost. With this in mind, I urge your support of the proposed amendment to subpart 3712 of title 43, Public Lands.

Senator HECHT. Thank you very much. If you would all just stay in place, I may have questions for you later. I will ask Mr. John Latz, Deputy Director, Energy and Mineral Resources with the U.S. Bureau of Land Management, to come up.

STATEMENT OF JOHN E. LATZ, DEPUTY DIRECTOR-ENERGY AND MINERAL RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. LATZ. Thank you. We appreciate the opportunity to discuss with you the administration's position on S. 2157. That bill would amend section 4 of the act of July 23, 1955, to specifically authorize the United States to dispose of mineral materials located on mining claims. It would also provide that, if at any time the mining claimant requires more mineral material for his mining operation than is available to him from the claim after the United States has disposed of mineral material from the claim subsequent to its location, he shall be entitled, free of charge, to be supplied with mineral material for such requirements from the nearest mineral material site administered by the disposing agency. This would be subject to reasonable rules and regulations for the protection of nonmineral resource values, including environmental values.

At the present time, the United States has no authority to dispose of mineral materials on mining claims even though they are not needed by the mining claimant and development of the resources would not interfere with the operation of the claim. The amendment to section 4 would provide a useful expansion of existing authority for the Federal Government to dispose of mineral materials.

We would not object to enactment of S. 2157 if it were amended as we suggest.

As now written, S. 2157 says a mining claimant shall be entitled "to be supplied" with mineral materials if as a result of the Federal Government's disposing of the mineral materials on his claim, there are insufficient mineral materials to meet his mining needs. The phrase "to be supplied" may be interpreted to mean that the United States must do more than make other mineral materials available to the locator. We, therefore, suggest that the words "to be supplied with" be deleted from line 6, on page 2, of the bill, and the word "to" inserted at that point.

We also suggest that the bill be amended to make it clear that the locator would be entitled only to mineral material that is sub-

stantially similar in kind and quantity to the mineral material that had been disposed of from the claim. We also suggest that where mineral materials have been disposed of by a Federal agency and the mining claimant later needs such materials, the requirement that only the disposal agency may supply the materials may be too restrictive. It would be preferable that "in place" mineral materials be available from the nearest acceptable Federal source identified by the claimant, irrespective of managing agency.

Further, we believe that the addition of the words "mineral material" be more specific. The language in S. 2157 could be read to mean that only those mineral materials which exist on the surface are disposable.

Finally, there is a technical error on page 1, line 7. The reference to 31 U.S.C. should be "30 U.S.C.". We will be happy to supply specific language of amendment.

I will be pleased to answer any questions.

Senator HECHT. Thank you. Mr. Latz, on page 2 of your testimony you recommend the phrase "to be supplied with" contained in S. 2157 on line 6, page 2, be deleted. You recommend this change out of concern that the United States might have to do more to make other mineral material available to the claimant.

Recognizing that the phrase "to be supplied with" is used in section 4(b) of the 1955 act as it relates to timber, why do you believe that this phrase would cause a problem with respect to mineral materials? Has the interpretation of this phrase caused problems in the past with timber?

Mr. LATZ. Mr. Chairman, timber is a much more readily available, resource than subsurface sand and gravel. We can make readily available at little cost to the taxpayer, access to, and the obtaining of the resource in the area of timber. With respect to the cost of opening up gravel pits, we feel it would be burdensome to the taxpayer to bear that cost in this instance.

Senator HECHT. Also, on page 2 you indicate where mineral materials were disposed of by Federal agency from a mining claim, that agency will help to supply such mineral material to the mining claimant later is too restrictive. Would you elaborate? Also, what do you mean by "in place" mineral materials? How would the words mineral material be made more specific?

Mr. LATZ. The first point, Mr. Chairman is that in the instance of a mining claim which perhaps was on BLM land, that is adjacent, say, to a Forest Service parcel, it appears reasonable that if indeed there is equivalent mineral material on the Forest Service land in close proximity, it would be more prudent to make that available than some more remote mineral material on BLM land. Simply for the convenience and economics of the operator, of the mining claimant in obtaining the material, it would be from the closest point available, regardless of Federal jurisdiction.

Regarding the second point, "in place," we are concerned that the language in the amendment could be interpreted that, one, the BLM, or Federal agency, bears the burden of finding the material as well as taking some physical action to make it available. So we recommend, Mr. Chairman, that the amendment clearly indicate that the mineral material as it exists in place be made available to

the mining claimant as opposed to being interpreted that it would require some activity on our part to make it available.

The last point, Mr. Chairman, about specificity of the phrase "mineral material," we are concerned that the mineral material would be interpreted as being that only existing on the surface. In most instances, sand and gravel, or at least gravel, occur subsurface, and the mineral materials should be available whether it be on the surface or subsurface.

Senator HECHT. Finally, on the second page of your testimony you express concern if the language in the bill could be read to mean that only those mineral materials which exist on the surface are disposable. Could you elaborate?

Mr. LATZ. Yes. The same point, Mr. Chairman, that the gravel on a mining claim not be interpreted in the very superficial sense that timber materials or timber resources, vegetative resources which are obviously surficial, that the availability of gravel, mineral materials from a mining claim be read to include subsurface, that is existing below the surface.

Senator HECHT. If you have a mining claim which is covered by sand and gravel to a depth of 20 feet across the length and breadth of the claim, and you issue a permit to remove 3 feet uniformly from the claim, do you not now have a new surface? At what point are you not removing surface mineral materials?

Mr. LATZ. I guess that is the essence of our recommendation of amendment, Mr. Chairman. From the mineral standpoint that would be separated from the vegetative resource to make those subsurface materials available irrespective of depth.

Senator HECHT. Ms. Dorothy Allen, has your Governor contacted Governors of surrounding States in order to get more help in this?

Ms. ALLEN. Not to my knowledge.

Senator HECHT. Because all of your testimonies have been brief and to the point, I want to exercise the prerogative of the Chair and allow each of you from Utah—you have come a long distance to testify today—if you wish, to ask any question of the record for Mr. Latz at this time. Do you have any questions you would like to have answered for the record, Mr. Tibbetts?

Mr. TIBBETTS. I would probably have some concern in regards to the subsurface gravel. In so many instances around the country—I don't think it really occurs in Utah as much as maybe in Wyoming—where they have a lot of public lands the uranium does appear in the gravel in that area, and I think we may have a cross-problem in that. How would we relate to that? In Wyoming I think you find the uranium is right in the gravel itself, and there we have a problem between the miner and the BLM on who may have the right to remove that at what point.

Mr. LATZ. I think we would like to have, Mr. Chairman, the regulatory authority to preserve the higher mineral values for the mining claimant. I guess absent some specific statutory direction, we would be inclined to include that in our rulemaking.

Mr. BLACK. Mr. Chairman, as I understand it, I don't believe that the recommendations that this gentleman has made would be a problem. I think that, in fact, they are dealing with the problem. Very often you may have gravel that is actually subsurface and covered by soil or alluvial material that has to be stripped off, and

I think his recommendations, at least as I understand them, will clarify that problem so we wouldn't have one in the future.

Additionally, sometimes gravel resource is in a rock that has to be blasted and not just the natural alluvial riverbed. In many cases we have to use that material, and as I understand it, his recommendations would resolve that problem.

So as I have listened to the recommendations, I think they would solve some problems that might come up and I can see no reason to object to any of the recommendations that he has made as both a public official and mine claim owner.

Senator HECHT. Ms. Allen, do you have anything you would like to add?

Ms. ALLEN. No, sir.

Senator HECHT. Anything else?

Mr. TIBBETTS. No. I think the gentleman pretty well answered my questions.

Senator HECHT. Commissioner Black.

Mr. BLACK. No.

Senator HECHT. We thank you for coming a long distance to testify before us. Mr. Latz, do you have anything else to add?

Mr. LATZ. Nothing, Mr. Chairman.

Senator HECHT. The hearing is adjourned.

[Whereupon, at 10:10 a.m., the hearing was adjourned.]